

LICENSING AND APPEALS SUB-COMMITTEE

1st December 2020 at 10.00am

PRESENT:-

Members of the Licensing and Appeals Sub-Committee

Councillor Mrs J Patten (Chairman), Councillor Muller (Conservative Group), and Councillor Richards (Labour Group).

District Council Representatives

Ardip Kaur (Head of Legal and Democratic Services), Faye Norman (Licensing Officer), Donna Foster (Democratic Services Officer).

LAS/12 **APOLOGIES**

The Sub-Committee was informed that no apologies had been received.

LAS/13 **DECLARATION OF INTEREST**

The Sub-Committee was informed that no declarations of interest had been received.

MATTERS DELEGATED TO SUB-COMMITTEE

LAS/14 **HEARING FOR AN APPLICATION FOR A PREMISES LICENCE TO BE GRANTED UNDER THE LICENSING ACT 2003 – RUSSELLS YARD LTD**

The Chairman introduced herself and other members of the Sub-Committee introduced themselves. The Legal Advisor, Clerk to the Sub-Committee, Licensing Representative and all those present also introduced themselves.

The Chairman outlined the procedure to be followed during the hearing, in accordance with the Council's Licensing Hearings Procedure.

This was a hearing to consider the application of a Premises Licence at Russell's Yard Ltd, 71 Derby Road, Melbourne, Derbyshire.

Mr Yasin attended the hearing along with his representative Mr Mayhew. Mr Yasin had submitted two further documents in advance of the hearing, which has been circulated to the Sub-Committee.

The Chairman invited the Council's Licensing Representative to present the report. The Licensing Representative confirmed that the application had been received by the Licensing Authority on 9th October.

The Sub-Committee, the Applicant's Representative and Mr Lee had opportunity to ask questions of the Council's Licensing Representative.

The Chairman invited Mr Lee to make representations to the Sub-Committee. Mr Lee stated he had two areas of concern. The first being the proposed opening hours of the premises. He informed the Sub-Committee that the building was in a residential area, with one of the closest properties only 15 metres away. Another property, a Bed and Breakfast, was closer, and he thought that it may close due to the proposed opening hours. Mr Lee advised that there was no parking for the premises, there would be noise from car doors slamming, and singing from individuals leaving the premises. Mr Lee stated he thought this was unacceptable in a residential area and the proposed hours were not reasonable. He advised there would be noise due to the nature of the business. Mr Lee went on to say the sale of alcohol by retail would result in individuals using the premises as an off licence. Mr Lee stated his second area of concern was a safety issue. He stated that the planning process had allowed 150 covers for the premises and had not allowed for careful evacuation. He stated no reasonable adjustments had been made and, in his view, that was dangerous. Mr Lee stated there should be limitation on the number of individuals at the premises and this was a danger to people.

The Sub-Committee, the Applicant and the Council's Licensing Representative had opportunity to ask questions of Mr Lee.

The Chairman invited the Applicant's Representative to make representations to the Sub-Committee. Mr Mayhew advised the premises was on two floors: the top floor being a high-end restaurant and the ground floor a bar. He stated it was not a late-night bar, nightclub, or off-licence. Mr Mayhew confirmed the premises would allow people to have a meal, followed by a drink if desired. He went on to explain that he did not envisage singing from individuals frequenting the premises and that matters had been through a thorough planning process. Mr Mayhew advised that as a result of the planning process there were constraints on the premises, such as the outside area not being used after 10pm. He stated the proposed hours were compatible with other premises in the area; the week hours were standard, and the weekend hours like other premises in the area. Mr Mayhew stated this would aid dispersal. Mr Mayhew made reference to the Dispersal Policy and highlighted its detail. He said this would provide reassurance regarding individuals leaving the premises carefully and a great deal of thought had gone into the document.

Mr Mayhew informed the Sub-Committee the conditions in the application had been agreed with both the Police and the Licensing Authority. He stated the premises would only play background music and other measures such as the erection of signage, keeping an incident log and staff training would be undertaken. Mr Mayhew informed the Sub-Committee only one representation had been received, and any fear of the closure of the Bed and Breakfast business was not manifested in the number of representations received. He went on to say there were no representations from Responsible Authorities, they were comfortable with the conditions proposed. Mr Mayhew stated the intention of the off sales was so that individuals could take away a bottle of wine that may be unfinished whilst dining. He said no-one would be purchasing cans of beer from the premises, as there was a Sainsbury's store nearby.

Mr Mayhew advised the Sub-Committee of the written response to Mr Lee's representation. He stated he had attempted to engage with Mr Lee, without success. He advised the proposed hours were not onerous and in line with other premises in the area. Mr Mayhew stated Mr Lee's suggestion of the premises closing at 00:15 on New Year's Eve would cause issues as a longer period was needed for dispersal. He stated from 10pm individuals would start leaving the premises from the first-floor restaurant, and this would allow a longer period of dispersal.

Mr Mayhew stated the consumption of alcohol on the staircase would not be permitted. He advised planning permission had been granted and taken account of all relevant details. He stated the fire evacuation procedure at the premises would take account of any disabled individuals visiting the premises. Mr Mayhew informed the Sub-Committee wheelchair users would be able to dine on the ground floor and would receive a good service. In conclusion, Mr Mayhew stated he respected Mr Lee's views, however, these were the views of only one resident. There were no further representations from residents or Responsible Authorities. He requested the Sub-Committee grant the application as requested.

The Sub-Committee asked questions of the Applicant and invited the Licensing Representative and Mr Lee, to put questions to him as well. Mr Lee raised queries regarding the planning process, the proposed hours, and concerns regarding noise.

The Chairman invited the Licensing Representative, Mr Lee, and the Applicant to sum up their representations. Mr Lee stated the premises was in the middle of housing and he had requested a reduction from the proposed hours. He stated a lot of people were opposed to the application and although he was not aware of the Committee's powers, there was a requirement for disabled people to be considered. He finished his summing up by stating people needed to sleep at night and the premises was only metres from housing. Mr Mayhew summed up and re-emphasised the inevitability of nuisance not being a reason for refusal of the application. He said the Applicant had considered dispersal, which was detailed in the policy document. Mr Mayhew reminded the Sub-Committee of the four licensing objectives and requested the application be granted as applied for.

The Sub-Committee left the meeting to deliberate.

In making its decision, the Sub-Committee had regard to South Derbyshire District Council's Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 and the Human Rights Act 1998, as well as the evidence presented in writing and given orally at the hearing.

The Sub-Committee also had regard to the four 'Licensing Objectives' namely:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

The Sub-Committee considered in detail the representations of the Council's Licensing Representative, the Interested Parties and the Applicant.

RESOLVED:

In reaching its decision the Sub-Committee took into account the four Licensing Objectives namely;

- *The prevention of crime and disorder;*
- *Public safety;*
- *The prevention of public nuisance; and*
- *The protection of children from harm.*

The Sub-Committee also had regard to the guidance issued under Section 182 of the Licensing Act 2003, the Council's Licensing Policy and the Human Rights Act 1998.

The Sub-Committee considered all documentation before them and gave due regard to representations made.

The Sub-Committee granted the application for a Premises Licence as follows:

Recorded music

Indoors

<i>Sunday – Thursday</i>	<i>11.00 to 23.00</i>
<i>Friday & Saturday</i>	<i>11.00 to 00.30</i>
<i>New Year's Eve</i>	<i>11.00 to 01.30</i>

Late Night Refreshment

Indoors

<i>Sunday – Thursday</i>	<i>23.00 to 23.30</i>
<i>Friday & Saturday</i>	<i>23:00 to 00:30</i>
<i>New Year's Eve</i>	<i>23.00 to 01.30</i>

Sale by Retail of Alcohol

On & Off the Premises

<i>Sunday to Thursday</i>	<i>11:00 to 23:00</i>
<i>Friday & Saturday</i>	<i>11:00 to 00:30</i>
<i>New Year's Eve</i>	<i>11.00 to 01.30</i>

Opening Hours

<i>Sunday to Thursday</i>	<i>11:00 to 23:30</i>
<i>Friday & Saturday:</i>	<i>11:00 to 00:30</i>
<i>New Year's Eve</i>	<i>11:00 to 01:30</i>

The grant of the application of the Premises Licence was subject to the mandatory conditions contained within the Licensing Act 2003, and the conditions contained within the operating schedule of the application form:

REASON FOR THE DECISION

Having taken into account the four Licensing Objectives, the guidance issued under Section 182 of the Licensing Act 2003, the Council's Licensing Policy and the Human Rights Act 1998, the Sub-Committee sought to balance the interests of the Applicant and the representations made by the Other Persons.

The Sub-Committee felt that it was appropriate and proportionate to grant the Premises Licence, subject to the conditions specified.

LAS/15 **LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

The Meeting terminated at 11:00 hours.

COUNCILLOR MRS J PATTEN

CHAIRMAN